

ORIGINAL

Dallas Division

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AUG 27 2001

CLERK, U.S. DISTRICT COURT

By

Deputy

(USA and )  
Jamal Elhaj-Chehade  
Co- plaintiff

Vs.

3:01-CV-01301-L

Educational Commission for Foreign Medical Graduates  
( entities and individuals) defendants

Plaintiff's preliminary( not final) response to the defendants

original answer..

August 20, 2001

Comes now on this date, the plaintiff is filing his preliminary response to the defendants original response as follow:

History

The plaintiff is labeled in the USA as FMG and the defendants labeled itself ECFMG and was created for the plaintiff welfare and benefit and excellence in order to be assimilated and integrated into the US Society and healthcare system. The defendants claimed and promised that it will engage into activities and develop educational activities for the plaintiff behalf to excel among many other roles. The defendants submitted an several applications with US Government both states and federal in order to acquire benefits under various forms of charters that allow the defendants to raise funds to be used to help the plaintiff educationally and otherwise in order to be integrated into the US Society and healthcare. While the defendants went on to fraudulently claim and collect upon such benefits, they never deliver or fulfill its obligations and promises to the plaintiff and to the public and the USA and abused its power and went on to act outside the scope for which it was intended and created for and became politically involved and raise funds through questionable acts of extortions and improper means. Such actions were the proximate cause of harm done to plaintiff, to the public and most important to this beloved Nation for which the plaintiff has the utmost interest and standing (any injury or harm done to the United States, government, people, public or constitution, is also a direct injury to the plaintiff) and the plaintiff has an interest in the course of activities and the assets of the defendants, and the nature and performance of the defendants( and its personnels) and plaintiff is entitled to know where the money goes( when where, if, how and how much and for what etc...).

In addition, the plaintiff is a former US armed forces member who vowed to protect the United States( and people and government and Constitution) from any harm done by any third party and the plaintiff does have a special standing in the matter. Furthermore, the plaintiff does have a special interest in the fate of every penny in the trust of the defendants.

Statement and arguments.

- 1- the plaintiff denies that he submitted an amended complaint, the plaintiff submitted his own initial and he had to use another paper to add the jurisdictional requirement once the case was allowed to proceed IFP.

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- 2- The plaintiff is labeled in the U.S. as FMG( doctor educated abroad) and the defendant was named ECFMG. The plaintiff was never created for the welfare and benefit of the defendants, however the defendants ( also as the name implies and through its own publications) admitted to be created for the welfare, and benefit and opportunity and integration and advancement and excellence and education of the plaintiff and thus there is a **special and distinguished relationship** ( de facto and otherwise) between the plaintiff and the defendant. The plaintiff has a paramount interest in the affairs and the behavior and the activities and the assets of the defendants which was created on his behalf and his honor. Therefore standing exists( monetary and otherwise , and tangible and non-tangible) because the plaintiff cannot tolerate seeing an organization created on his behalf be engaged in activities (illegal and otherwise) that cause harm to the plaintiff himself, and the public in the US ,and to the country the plaintiff loves the United States of America . the plaintiff does also have a special interest ( monetary and otherwise) in that the defendants adhere to the cause and mission for which it was created and that its operation and activities remain an all-time legal.( the plaintiff want to put the defendants back into the closet by having them comply with the law and perform its obligations toward the United States, and toward the plaintiff both as an FMG and as a public member. The plaintiff does have an interest in the assets and activities and performance and efficiency of the defendants including the tax matter( public matter, for which the plaintiff filed the appropriate forms with the authorities) and the plaintiff does a personal interest in the activities and performance and fate of every penny in the hand or trust of the defendants
- 3- The plaintiff statement is clear in that the defendant did not comply or adhere to it obligations ,did use fraud, deception and the alternative to acquire benefit and violate the US laws in Taxes in 501(3)(c ) and otherwise. For which the US and the public are the real party of interest. And the plaintiff does have a standing in the matter as a person and as a public member and as loyalty to this country. And the plaintiff has an interest as a concerned public member in the matter because of the special relationship that exists between the plaintiff as an FMG and the defendants ECFMG. The plaintiff is labeled in the US as FMG( doctor educated abroad) the plaintiff was never made to benefit the defendants and he does not have any obligations toward the defendants, but the defendants do have obligations toward the plaintiff as per se and as public member. and the plaintiff did file the appropriate document with the appropriate authorities. claiming non profit or educational comes with a price( obligations) that the defendants must adhere to.
- 4- The plaintiff asserts that he does have the evidences to back all his claims and the plaintiff is demanding that the defendants produce their income tax files for the years 1994-2000 , and copy of their investments in securities and other investments they are engaged in.
- 5- The plaintiff asserts that the defendants admitted in their own publications to every element of every claim brought against them in this case and the 3:99CV 680-D/BC.
- 6- The plaintiff denies that the defendants is a non-profit organization and any such use or acquisition of such status is done through fraud, deception and misrepresentation or the alternative. And that the defendants admitted to be for profit in explicit language as to leave no room for doubt in their lawsuit title Educational commission

for Foreign Medical Graduates Vs Teknology Laine and Dr Badrisadat Madani in The USDC court in Greenville South Carolina case 6-99-1767-24 ( see initial complaint of the said case dated May 24, 1999 pages 5 and 20).

- 7- The defendants admitted ( see their defense) to have acquired federal benefits ( or the equivalent, alternatives) under false pretenses. The defendants admitted to be educational for the sole purpose of acquiring such benefit in the case brought in this USDC 3:99-CV 680-D/BC . the plaintiff object to the use of the USDC Jane Boyle order and opinion because such order must be vacated because the USDC cannot enter unconstitutional order. Such order lack the constitutionality and the validity and it was premature. and the course of the proceeding speaks for itself and it was done by judges under the influence( Ex parte communication, Bribery, personal interests and ambitions or the alternatives and the plaintiff intends to go public with the records if necessary) and that the plaintiff demanded the orders to be vacated and remanded to be consolidated with this case for a new and overall proper and meaningful hearing( the plaintiff is entitle to have a meaningful access to the court. In addition the plaintiff did not waive his right for mediation in the case 3:99CV 680-D/BC ( the plaintiff simply refused to engage into such mediation at the time because it does not protect the public and the US Interest) and the proceeding under Judge Jane Boyle was fabricated because the tolling time must be July 1997and not 1990, because it is a claim of **aggravation** of preexisting mild condition( delaying licensure) and ( within the statute of limitation) it is a simple case as follow on 1997 and thereafter the plaintiff wanted to excel but the ECFMG violated its obligations deliberately and prevented him from doing so( see ECFMG aims and missions and claims), and because of long and repetitive history of the defendants violations which are now clear and cannot be attributed to any third party, the plaintiff is entitled to both prospective and retroactive reliefs as well as compensative, punitive, retributive and exemplary and other unnamed damages as seen fit, just and appropriate .
- 8- The plaintiff asserts that all the damages done( except time lost with its opportunity cost) are reversible and the responsibility to reverse them lies solely with the ECFMG( see ECFMG aims and mission and the refusal of the ECFMG to do so proves all the plaintiff claims both past and present which require special consideration by this honorable court).
- 9- There are new development and new evidence in the case as to warrant rehearing of all the matters together.
- 10- The plaintiff assert that every day can be a new cause of action toll day, the plaintiff is constantly seeking excellence and the ECFMG admitted to be created for such purpose and every time the ECFMG interfere with the plaintiff achievement of such excellence constitute a new starting toll day for a new litigation with retroactive liability as well. And this will continue until the matter is corrected.
- 11- The plaintiff asserts that the collateral estoppel does not reach. Collateral estoppel purpose is to prevent the plaintiff from receiving duplicate compensation for one and same cause of action. Here the plaintiff brought two distinct causes of actions and no compensation was rendered to any yet.
- 12- The plaintiff asserts that the negligence and cause of damages in all aspect lies solely on the ECFMG due to the premeditated and repetitive actions as to cause harm.

- 13- The plaintiff asserts that the Texas limited charitable act liability does not reach. The defendants admitted to fraudulent use of nonprofit charity status, +and the defendants are not resident of Texas to qualify. And even if qualify, the nature and scope of the defendant actions are **exceptions** to the limited liability doctrine of Texas Charitable act of 1987 in many aspects including (but not limited to) that the defendants actions were repetitive and premeditated and with a long history, and it serves political scope or agenda ( see Texas Civil practice code( 84.002 and 84.0003-B).
- 14- The plaintiff asserts that there are no intervening third parties or elements in the 1997 and thereafter and even if assumed to exist such parties acted at and under the defendants directive. In Fact the defendants do have duty to stand up for the plaintiff and not against him when dealing with third parties( see ECFMG aims and mission). And that the defendants are liable for any third party or events( the defendants can bring legal actions against third parties if they see them liable such third parties act under the instigation of the defendants).
- 15- The plaintiff asserts that statute of limitation never run out specially in case where aggravation of reversible or preexisting condition or wanting to excel. And the defendants do have the power to reverse the damage created and failure to do so explains the intents of the defendants as cause aggravated assault and cause harm. And the plaintiff firmly denies the defense of comparative negligence because there are no third parties involved since 1997.
- 16- The defendants acquired federal benefits on the intent that it will perform some public services( educational and otherwise) however the defendants spends less than one percent on the cause for which it was created. Therefore the defendants use deception and it has become a public nuisance. In fact the deliberate intent to fight the plaintiff in court speaks for itself that the defendant is a public nuisance. The plaintiff was and still do open to reasonable compensations and reliefs for the all actions that all are within the statute of limitation. Definitively, the defendants never offered anything reasonable. And now the ECFMG want to put me out of commission and become a public charge( Is that a charitable contribution, is that within the scope and mission for which the defendants was created for.
- 17- The plaintiff asserts that Texas is a right to work state and the defendants must not interfere in his work by depriving him the use of his assets and property. or creating any condition that leads to such denial or right to work or preventing the plaintiff right and chances to succeed and excel.
- 18- The plaintiff asserts that upon remand of the old case, the plaintiff will consolidate the two cases, for a new hearing and upon taking the depositions of the defendants( it is a must) and upon hearing of all evidence and witnesses in front of a Jury and the public, then the court render final order or judgment which will be inevitably in the plaintiff's favor( the plaintiff may have an attorney representing him in the consolidated cases).
- 19- The plaintiff stands firms in his demands for reliefs that The United States recovers its losses. And the plaintiff recovers his losses and that compensatory, retributive, punitive and exemplary and other damages be awarded to the plaintiffs( to be determined later). As seen fit, just appropriate and necessary and recovery of all costs( legal, opportunity, harm, deterioration, and burdens and stress and inconveniences and others).

20- The plaintiff asserts that all the defendants defenses are inappropriate and that all the defendants claims against the plaintiff are incorrect.

**Certificate of service and conference:** this is to certify that the plaintiff ultimately succeed in contacting the defendant attorney My Moscowitz on Friday august 24, 2001 on 12:36 noon and via e-mail and via telephone and the parties agreed to meet on Wednesday August 29, 2001 at 2:00 PM in the defendants place, However the defendants changed to location to the Federal Building law library for the same time and date the purpose of the scheduled meeting will be to discuss the matter presented in the court order received Friday on August 24, 2001. and the plaintiff certifies that a true copy of the foregoing and its **attached exhibit( plaintiff motion to vacate and remand the case 01-10147 in USCA-5 that was sent on August 13, 2001)** was sent via regular USPS prepaid mail on the day of August 27, 2001 to the defendants attorney MRS Susan Schwartz at 6688 N. Central Expressway#850. Dallas, Texas 75206-3913.

Respectfully submitted  
Dr Jamal Elhaj-chehade, plaintiff pro-se. IFP  
5414 Cedar Springs 806  
Dallas, Texas 75235



**USCA-5 Case No. 01-10147**

For USDC case # 3:99 CV-0680-D/BC

JAMAL ELHAJ-CHEHADE

Plaintiff-Appellant

v.

EDUCATIONAL COMMISSION FOR FOREIGN MEDICAL

GRADUATES (entities and individuals)

Defendants- Appellee.

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- Plaintiff's motion to vacate the USDC orders( judgments) and remand the case to the USDC for new proceeding.
  - -plaintiff's response to the defendants latest response.

August 6<sup>th</sup>, 2001

Comes now on this date, the plaintiff is filing his motion to remand this case to USDC( vacate all the orders for a new trial and to file the brief out of time) as follow:

The plaintiff denies firmly that any of his lawsuits are frivolous, specially the new one case 3:01-C-01301-L and the plaintiff object to the manner and style in which the defendants made their statements trying to argue a case pending in another court. The plaintiff is hereby affirms his new claims that include fraud and deception and the defendants must submit copies that include their income tax return for the years 1993-2000 and a copy of ECFMG initial application with IRS



(US Govt) and copy of their securities and all their investments and other publications by the defendants as deemed necessary or requested later.

2- the plaintiff brought cases 3:99 CV 680-D/BC in which **the defendants admitted in their own publications to the every element of each claim against them**( except those of the emotional distress clause where the plaintiff has no problem proving it taking into account the repetition of hostility and gang rape hell and other aggression which make the toughest judges to succumb) and the plaintiff is demanding that the evidence be allowed be introduced and witnesses heard **in front and by jury** and the public who share the utmost interests in the matter before rendering any judgment.

3- the lower court fabricated the proceeding and violated the US constitution and major federal laws that include but not limited to violations of the due process and equal protection of the laws to the double jeopardy and property rights of fifth and fourteen amendment. And included **Exparte communication, and violation of the meaningful access to the court. And violated the FRCP rules of evidences and others.**

#### **Argument and authorities**

**The US Constitution and the federal laws are the supreme laws of the land( X amend) and such supreme laws take supremacy and precedence over any other rules, forms,, technicalities, and less relevant laws and local rules and unconstitutional rules and orders by any court. The supreme laws take supremacy precedence over the less relevant matters and arguments and citations submitted by the defendants in the past, present and FUTURE.**

Furthermore, the citations used by the defendants are inappropriate, Those supreme laws take also precedence over the unconstitutional orders and violations of the U.S . constitutions done by the USDC in their improper and cover up process, procedures and orders.

### **History**

On January 1997,the plaintiff began working at UTSW as a researcher(no time limit) on a research project with Dr Joshi. Late March 1997, Dr Marina Pavlova abandoned her residency slot at UTSW( which will start on July of same year) for another position at Women and Brigham Hospital in Boston. Since the research project was completed, UTSW offered the plaintiff more research projects on March 1997 so he will be accepted for the residency on July 1997 while he works out his paper work with the ECFMG( which has several compact alliances with UTSW). The problem with ECFMG did not go smooth regarding his revalidation of the ECFMG certificate because the ECFMG want to subject the plaintiff to retake and repass examination and remeet requirements already met( double jeopardy). When the plaintiff and the ECFMG contact did not go as planned. In 2 days UTSW found out( exclusively from ECFMG because events are confidential) and decide not to accept the plaintiff in residency at the directive of the ECFMG( note: the ECFMG admit on its website of such contacts with every applicant, which explains the nationwide blackout against the plaintiff). When the plaintiff, on July 1997, threaten to bring a legal matter for discrimination in the residency process at UTSW, UTSW claimed that ECFMG told them to do so or they



will lose their accreditation( a problem that haunted UTSW dept of anesthesia at the time), and when the plaintiff insisted on his position in July 1997, UTSW sent the plaintiff a notice that his employment at UTSW will end on October 2, 1997. the plaintiff filed complaint against UTSW where evidences exist and ended up as a lawsuit( 3:98CV-1622-P). On January 1999, the USDC judge refused to incorporate the ECFMG as a party in 3:98 C 1622-P( USCA5 case 99-11112) under the influence of the corrupt ECFMG. The plaintiff in order to expedite the proceeding against the ECFMG( because of statute of limitation) brought a separate case against ECFMG 3:99CV-680-D/BC on the hope to consolidate it later with 3-98C 1622-P. but because of the EX-parte communication between the defendants and the court, the court delayed the proceeding against ECFMG for nine additional months and after a judgment rendered in 3:98-CV-1622-P. the delay in proceeding came through questionable and repetitive changes of judges to cover up the traces of corruption and the Ex-Parte communication that existed. Judges Boyle inherited the case and refused to correct the damage in the case and in the due process and abused its discretion as to violate the US Constitution by rendering Unequal (extra) protection of the laws to the defendants by depriving the plaintiff request to perform his deposition of Dr Gary of ECFMG( see USDC order dated July6th, 2000)( reconsideration denied). As more evidence become available, the plaintiff demanded to add more charges, But judge Boyle refused and strike the evidence and render premature judgment three days before the planned meeting in the judge

Boyle office on Friday January 12, 2001 at 10:AM( as of judge Boyle scheduling order) in which the parties are supposed to submit their list and evidences and witness. The plaintiff attempted to obtain a postjudgment hearing based on new evidence but neither the defendants ( no service rendered to the plaintiff) nor the court replied. Soon thereafter, further evidence of were obtained.....

The conduct of the court violate the Us Constitution and the Federal Laws and every supreme law in the Land. Also the order in which the court based its opinion was based on fabricated proceeding and the court did not follow the rules FRCP of evidence as to be most in favor the plaintiff, the court even strike the evidence the plaintiff submitted and proceeded as if the plaintiff brought an action for the 1990 incident. The ECFMG created a reversible condition on 1990, the plaintiff went on to reverse the said condition and he was successful for 99%. On 1997 the ECFMG decided to aggravate( within the statute of limitation) the condition and to reverse any improvement the plaintiff made. The ECFMG admitted in its own publications to every element of every claim the plaintiff brought. But the court is under the influence and corrupt. The defendants admitted to be created for the welfare and benefit of the plaintiff and the defendants do have obligations toward the plaintiff( ECFMG aims and mission) and the public, but the ECFMG never fulfill its obligation and engaged in harmful acts(some of which involve fraud and deception) against the plaintiff both as a consumer and as a potential

provider of healthcare (RICO) and all the defendants actions when combined to the past actions(1990) speaks for itself and caused the emotional distress.

**Reasons why this case must be remanded**

1-the USDC orders and judgments are unconstitutional in every aspect, procedure, content, and aimed at subjecting the plaintiff to the double jeopardy. The plaintiff never had the proper due process or the proper protection of the laws. and that the USDC orders are Unconstitutional and improperly interpreted. and subject the plaintiff to the double jeopardy by the USDC.

Any order must come only after all the evidences and witnesses heard in all those disputed matters. and under the FRCP rules of evidences in most favorable to the plaintiff. the defendants admitted in their publications to every element of each claim brought( RICO, negligence, deliberate tort etc..) and that the ECFMG personnels deliberately engage in questionable practices with other parties that are aimed at price fixing by reducing the number of actual licensed physicians in the US which caused immediate harm to the plaintiff both as public member, as a consumer, and as a potential provider. therefore the defendants are aimed to achieve :legal goals by illegal means or illegal goals by legal(or illegal) means.

2--More reasons to warrant the plaintiff demands; there are important and recent evidences obtained after the judgment, and there are new and major developments in the course of events. Mr William Kelly( of ECFMG in his affidavit) admitted that the plaintiff is not required to take any examination, and the plaintiff requested on january 2001 a revalidation of his credential because his English test never Expired. and the plaintiff recently finished his undergraduate work in The USA which means that the ECFMG must exempt him ( in writing by letter as meeting and satisfying the ECFMG requirements) from taking any exams even if the plaintiff has never received any ECFMG Certificate. So far the plaintiff never received anything which clearly explains the intentional harms against him by the ECFMG. and the plaintiff is entitled to retrograde reliefs as well.

3-Also some of the damages done are reversible and the ECFMG has the duty to lessen the damages created against the plaintiff( it is part of the ECFMG mission) specially when such damages are caused by the ECFMG themselves.

4- the remand will reduce the cost of litigation and increase efficiency and lead to proper administration and enhancement of justice.

#### **Conclusion;**

this case must be remanded, because the USDC orders are unconstitutional and illegal and the US Government will never endorse or allow the violation of its own supreme laws that must take supremacy precedence over any brief and non-brief or other arguments and justification. No court in the United

States is allowed to subject a person to double jeopardy. and no judge who of sound mind is allowed to endorse the violation of the supreme laws unless judges are incompetent or under the influence for many reason. Judgment must come only after hearing the evidence and witnesses and the deposition of the defendants officials. the Federal courts do have the constitutional duty to act as a guardian for people and as a guardian for the US Constitution(we the people).

2- the USDC orders are unconstitutional and violate and endorse the violations of the supreme laws of the land. the US Government does not allow for such an endorsement or violation of its own laws and no judge of sound mind would render such an endorsement unless such judge is under the influence( Ex Parte Communication, Briberi , personal interest and ambitions, etc.. or any alternatives) which make such orders obsolete and lack any validity that mandates the remand for further hearing and consideration. furthermore, the CORE of the litigation is the violation of the supreme laws of the land and subsequently all the defendants defenses and arguments ( past, present and future) are invalid and constitute hearsay, denied by the plaintiff, blah-blah-empty words, lies or deception aimed at diverting attention and distract the proceeding from the meaningful access to the court and the essence core of the litigation. Distractors and deceptives are not the cause of this action and for this reason the plaintiff( without waiving his right to do so in the future) will not answer them word by word at this time. The violation of the supreme laws of the land take preference and

precedence over any other disputed and non-disputed matters. and the plaintiff insists that the deposition of the defendants must be taken and evidence introduced in the presence of jury and public before any judgment, any cover ups must end now.( the plaintiff is always demanding motion for Bill Of Particulars for any order in which the judge name must state in details in every order the grounds for their endorsement of the violations of the supreme laws). The public is entitled to know and has a major interest in the matter.

3- the remand will reduce the cost of litigation and enhance the administration of justice in the face of the major development and evidences in the matter. A justice delayed is better than premature Non-justice.

**Certificate of Service:**

this is to certify that on the day of August 13, 2001, and via USPS regular prepaid mail, Seven copies of this foregoing were sent to the USCA-5 through the clerk address at 600 camp street suite 102, New Orleans, La 70130. and one copy via same and electronic e-mail to the ECFMG defendants through their attorneys at Mrs Schwartz 6688 N. central expressway #850 Dallas Texas 75206-3913.

**Respectfully submitted and God bless the USA**

**Dr Jamal Elhaj-Cehade, pro-se, IFP**

**5414 Cedar Springs#806**

**Dallas, Texas 75235.**

